



REC'D TN  
REGULATORY AUTH.

BellSouth Telecommunications, Inc.  
Suite 2101  
333 Commerce Street  
Nashville, Tennessee 37201-3300

615 214-6301  
Fax 615 214-7406

'99 NOV 23 PM 4 02

Guy M. Hicks  
General Counsel

OFFICE OF THE  
EXECUTIVE SECRETARY  
November 23, 1999

VIA HAND DELIVERY

David Waddell, Executive Secretary  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37238

Re: *Petition for Arbitration of the Interconnection Agreement Between BellSouth Telecommunications, Inc. and TeleConex, Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996*  
Docket No. 99-00902

Dear Mr. Waddell:

Enclosed are the original and thirteen copies of BellSouth Telecommunications, Inc.'s Petition for Arbitration of the Interconnection Agreement Between BellSouth and TeleConex, Inc., pursuant to Section 252(b) of the Telecommunications Act of 1996. Copies of the enclosed are being provided to counsel for TeleConex, Inc.

Very truly yours,

Guy M. Hicks

GMH:ch  
Enclosure

*Paid \$25.00  
ck#  
575*

**BEFORE THE  
TENNESSEE REGULATORY AUTHORITY**

REC'D TN  
REGULATORY AUTH.

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EXECUTIVE SECRETARY  
*[Signature]*

In re: )  
)  
Petition for Arbitration of the Interconnection )  
Agreement Between BellSouth Telecommunications, )  
Inc. and TeleConex, Inc. Pursuant to the )  
Telecommunications Act of 1996. )  
\_\_\_\_\_ )

Docket No. \_\_\_\_\_

**PETITION OF BELL SOUTH TELECOMMUNICATIONS, INC.  
FOR SECTION 252(b) ARBITRATION**

Pursuant to Section 252(b) of the Telecommunications Act of 1996 ("1996 Act"), BellSouth Telecommunications, Inc. ("BellSouth") files this Petition for Arbitration ("Petition") seeking resolution of certain issues arising between TeleConex, Inc. ("TeleConex") and BellSouth in the negotiation of a Resale Agreement. BellSouth states as follows:

**A. STATEMENT OF FACTS**

1. BellSouth is a corporation organized and existing under the laws of the State of Georgia, maintaining its principal place of business at 675 West Peachtree Street, N.E., Atlanta, Georgia 30375. BellSouth is an incumbent local exchange carrier ("ILEC") as defined by 47 U.S.C. § 251(h).

2. On information and belief, TeleConex is a corporation organized and existing under the laws of the State of Florida, maintaining its principal place of business at 5783 Grande Lagoon Boulevard, Pensacola, Florida 32507. Upon information and belief, TeleConex is certificated by the Tennessee Regulatory Authority ("Authority") to provide resold services. Additionally, upon information and belief, and pursuant to the aforementioned certificate, TeleConex provides resold telecommunications services to customers in the State of Tennessee.

3. Pursuant to the provisions of Section 251(c) the 1996 Act, BellSouth is required to offer (through negotiation or otherwise) for resale at wholesale rates any telecommunications service that it provides at retail to subscribers who are not telecommunications carriers. *See* 47 U.S.C. § 251(c)(4). The terms of the resale agreement must comply with the provisions of Section 251(b) of the 1996 Act. *See* 47 U.S.C. § 251(b)(1).

4. Under the provisions of Section 252(d) of the 1996 Act, BellSouth must make available its retail services for resale at wholesale rates that are determined by the State Commission on the basis of the retail rates charged to subscribers for the telecommunications service requested, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the local exchange carrier. *See* 47 U.S.C. § 252(d)(3).

5. On or about June 23, 1997, BellSouth and TeleConex entered into an agreement to govern the resale of BellSouth's retail services by TeleConex (the "BellSouth/TeleConex Resale Agreement"). The Authority approved the BellSouth/TeleConex Resale Agreement on or about July 29, 1999. The term of the BellSouth/TeleConex Resale Agreement was for two years. Pursuant to the terms of the BellSouth/TeleConex Resale Agreement, the parties have agreed to continue service pursuant to its terms until such time as a new Resale Agreement is in effect.

6. In anticipation of the expiration of the BellSouth/TeleConex Resale Agreement and pursuant to the terms of that agreement, BellSouth provided to TeleConex a written request for negotiation of a new resale agreement on April 19, 1999. A copy of the letter is attached hereto as Exhibit "A". BellSouth advised Teleconex that it was providing notice, pursuant to Section I of the Resale Agreement, and in compliance with Section 251(c)(1) of the 1996 Act, of BellSouth's request to commence good-faith negotiations toward a new agreement. BellSouth further advised TeleConex that, pursuant to the terms of the Resale Agreement, BellSouth

elected to negotiate a new agreement rather than to extend the term of the parties' existing agreement. BellSouth included a copy of BellSouth's Standard Resale Agreement for TeleConex's review. Although TeleConex did not provide a written response to BellSouth's letter, the parties did begin negotiations by telephone shortly thereafter.

7. Since April 19, 1999, BellSouth and TeleConex have been negotiating a new resale agreement. However, the parties were not able to come to complete these negotiations. Rather than seeking arbitration when the original arbitration window closed on September 26, 1999, the parties agreed to continue negotiating and to extend the negotiation period by an additional sixty (60) days, thus making November 25, 1999, the date the arbitration window closes. A copy of the September 23, 1999, letter wherein the parties agreed to extend their negotiations and the time for arbitration is attached hereto as Exhibit "B".

8. Although TeleConex raised a number of issues and questions regarding the existing resale agreement that could affect the new agreement, TeleConex did not propose any contract language to BellSouth for discussion. In a good faith effort to bring the parties' negotiations to a resolution prior to the expiration of the arbitration window, BellSouth wrote a letter to TeleConex on November 5, 1999, providing a summary of the negotiations and suggesting a timeline for the remainder of the parties' time for negotiations. A copy of the letter is attached hereto as Exhibit "C". In this letter, BellSouth confirmed its understanding that the only unresolved contractual issue from the negotiations related to TeleConex's concerns over charges for TeleConex's access to BellSouth's operations support systems ("OSS").

## **B. JURISDICTION AND TIMING**

9. Pursuant to Section 252(b)(1) of the 1996 Act, which allows either party to the negotiation to request arbitration, this Authority is empowered to arbitrate any and all unresolved

issues regarding TeleConex's purchase, at wholesale rates, of BellSouth's retail services. BellSouth's Petition is filed with the Authority between the 135<sup>th</sup> and 160<sup>th</sup> day from the date that the negotiations were deemed to have commenced. This Authority must resolve each issue set forth in this Petition not later than nine (9) months after the date on which TeleConex received the request for negotiation from BellSouth, which, based upon the parties' agreed upon extension of time, is on or before March 19, 2000.

### **C. STANDARD OF REVIEW**

10. The Federal Communications Commission ("FCC") established the appropriate standard for arbitration under Sections 251 and 252 of the 1996 Act in its First Report and Order, *Implementation of the Local Competition provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98 ("First and Report and Order"). Pursuant to the FCC's First Report and Order, the Authority must ensure that resolution of issues in an arbitration satisfy Section 251 of the 1996 Act, including regulations promulgated by the FCC.

### **D. ISSUES FOR ARBITRATION**

11. Pursuant to Section 252(b)(2) of the 1996 Act, the unresolved issue between TeleConex and BellSouth is provided below in the form of a matrix of the unresolved issues as understood by BellSouth and the respective position of the parties. The sole issue in dispute concerns the appropriate rates that TeleConex should pay for access to and use of the electronic and manual interfaces to BellSouth's OSS.

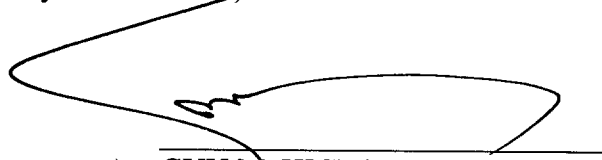
ISSUE DESCRIPTION	PETITIONER'S POSITION	RESPONDENT'S POSITION	FCC RULING
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What are the appropriate rates to be charged by BellSouth for CLECs' access to and use of the electronic and manual interfaces to BellSouth's OSS and functions?	The 1996 Act and the FCC's allow BellSouth to recover costs associated with developing, providing, and maintaining the electronic and manual interfaces by CLECs such as TeleConex access BellSouth's OSS. The Authority has recognized BellSouth's right to recover these costs, and BellSouth is proposing rates for electronic and manual access calculated consistent with the cost methodology adopted in Docket 97-01262.	Although TeleConex has stated that BellSouth should be allowed to recover its costs for CLECs' access to and use of BellSouth's OSS, TeleConex disagrees with the level of some of the charges and with certain instances when the OSS charges should be applied to CLECs.	First Report and Order, CC Docket 96-98, ¶¶ 682 and 690 (Aug. 8, 1996)  Third Report and Order, CC Docket 96-98, ¶¶ 425-426 (Nov. 5, 1999)
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## E. CONCLUSION

WHEREFORE, BellSouth respectfully requests that the Authority arbitrate the issue set forth in this Petition and enter an Order directing that BellSouth's position on the issue raised herein be incorporated into the Interconnection Agreement between TeleConex and BellSouth. Further, BellSouth requests such other, more general or specific relief as is just and proper under the circumstances.

Respectfully submitted this 23rd day of November, 1999.

A handwritten signature in black ink, appearing to read "Guy M. Hicks", is written over a horizontal line.

GUY M. HICKS  
333 Commerce Street  
Suite 2101  
Nashville, Tennessee 37201-3300

R. DOUGLAS LACKEY  
THOMAS B. ALEXANDER  
General Attorneys  
Suite 4300, BellSouth Center  
675 West Peachtree Street, N.E.  
Atlanta, GA 30375  
(404) 335-0750

COUNSEL FOR BELL SOUTH  
TELECOMMUNICATIONS, INC.

187246

**BellSouth Interconnection Services**

675 West Peachtree Street, NE  
Room 34S91  
Atlanta, Georgia 30375

David W. Hitt  
(404) 927-7518  
Fax: (404) 529-7839

**Sent via FedEx**

EXHIBIT A

April 19, 1999

Mr. Steve T. Watson  
President  
Teleconex, Inc.  
5783 Grande Lagoon Blvd  
Pensacola, FL 32507

***Re: Request that Teleconex, Inc. engage in negotiations with BellSouth  
Telecommunications, Inc. pursuant to Section 251(c)(1) of the  
Telecommunications Act of 1996***

Dear Mr. Watson:

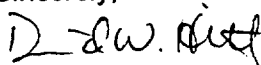
On June 23, 1997, BellSouth Telecommunications, Inc. ("BellSouth") and Teleconex, Inc. ("Teleconex") entered into an agreement for the provision of Resale in the state(s) of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee (the "Agreement"). The expiration date for that Agreement is June 22, 1999. Please be advised that this correspondence serves as notification that BellSouth chooses to negotiate a new Agreement rather than to extend the term of Teleconex's existing Agreement.

As such, pursuant to Section I of the Agreement and in compliance with Section 251(c)(1) of the Communications Act of 1934, as amended ("Act"), BellSouth is hereby requesting that Teleconex commence good-faith negotiations with BellSouth to enter into a new Agreement.

In an effort to move the negotiation process along, a copy of the BellSouth Standard Resale Agreement is herein provided for your review. Additionally, I have been made aware of your interest to negotiate a delayed payment of non-recurring charges (NRCs) into your agreement, which we will certainly review. Once you have had an opportunity to review what is already contained in the proposed agreement, please contact me with questions. If need be, we will begin scheduling meetings between the companies to address issues raised during your review.

BellSouth looks forward to working with Teleconex in reaching a mutually agreeable Resale Agreement. Should you have questions regarding this, please do not hesitate to call me.

Sincerely,

A handwritten signature in dark ink, appearing to read "D. W. Hitt".

David W. Hitt  
Manager-Interconnection Services

cc: Mr. Jerry Hendrix  
Ms. Parkey D. Jordan



**BellSouth Interconnection Services**

675 West Peachtree Street, NE  
Room 34891  
Atlanta Georgia 30375



David W. Hitt  
(404) 927-7518  
Fax: (404) 529-7839

Via Email

EXHIBIT B

September 23, 1999

Mr. Chris Watson  
Teleconex, Inc.  
5783 Grande Lagoon Blvd  
Pensacola, FL 32507

**Re: Negotiations between BellSouth Telecommunications, Inc. and Teleconex, Inc.**

Dear Chris:


In accordance with the discussions between the Parties, this letter memorializes that the Parties have agreed to extend the negotiations' window. Please sign below to indicate your concurrence that the official window for negotiations is deemed to have been extended to October 31, 1999. As such, the arbitration window will be from October 31, 1999, to November 25, 1999, at which date the sixty-day extension of negotiations will conclude.

Please return this document to me by facsimile. Call if you have any questions.


Sincerely,

David W. Hitt  
Manager-Interconnection Services

Concurrence:

Signature:   
Name: STEVE T. WATSON  
Title: PRESIDENT  
Teleconex, Inc.

Concurrence:

Signature:   
David W. Hitt  
Manager  
BellSouth Telecommunications  
- Interconnection Services

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**BellSouth Interconnection Services**

675 West Peachtree Street, NE  
Room 34S91  
Atlanta, Georgia 30375

David W. Hitt  
(404) 927-7518  
Fax: (404) 529-7839

*Sent via Facsimile and Fedex*

EXHIBIT C

November 5, 1999

Suzanne F. Summerlin, Esq.  
1311-B Paul Russell Road  
Suite 201  
Tallahassee, Florida 32301

Dear Ms. Summerlin,

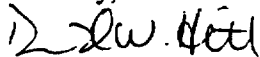
At this time, it seems useful to provide a summary of the negotiations between TeleConex and BellSouth and to establish a timeline for the balance of our negotiations.

At the outset of our negotiations, BellSouth proposed a new Resale Agreement which includes various provisions that did not appear in the Resale Agreement executed by TeleConex in 1997. To BellSouth's knowledge, the only specific contractual provisions TeleConex has disputed relate to charges for the use of Operational Support Systems (OSS). TeleConex has raised questions regarding quite a few operational issues, but has not identified any contract provisions to which those questions relate nor requested any specific revisions to the contract. In light of the foregoing, BellSouth assumes that OSS is the only unresolved issue based upon what BellSouth has proposed as new contract language.

TeleConex has raised concerns to which BellSouth has provided a response per the discussions I had with Mr. Watson around the late June and early July timeframe. BellSouth has also responded to the issues raised in your letter from September 21, 1999 per my correspondence to you on October 14, 1999. BellSouth has offered to meet with TeleConex, either face-to-face or via conference call, and to consider any proposals TeleConex may have for contract modifications, but as of today's date, TeleConex has not sought to schedule a meeting or to submit any modifications to the Resale Agreement. Notwithstanding the foregoing, BellSouth remains willing to answer any additional questions and to negotiate the Resale Agreement.

As you know, the statutory time frame within which the Parties must submit unresolved issues to the appropriate state regulatory authorities will close in approximately two weeks. Please let me know no later than November 12, 1999, if you would like to discuss the unresolved OSS issue, or if there are any other issues which TeleConex believes remain unresolved between the Parties.

Sincerely,



David W. Hitt  
Manager - Interconnection Services

Cc: Parkey Jordan, Esq.  
Bennett Ross, Esq.


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**CERTIFICATE OF SERVICE**

I hereby certify that on November 23, 1999, a copy of the foregoing document was served on the parties of record, via the method indicated:

- ☐ Hand
- ☒ Mail
- ☐ Facsimile
- ☐ Overnight

Suzanne F. Summerlin, Esq.  
1311-B Paul Russell Road  
Suite 201  
Tallahassee, Florida 32301



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